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(Original Signature of Member)

108TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. THOMAS introduced the following bill; which was referred to the
Committee on _____

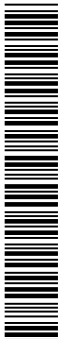
A BILL

To amend the Internal Revenue Code of 1986 to make
technical corrections, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tax Technical Correc-
5 tions Act of 2004”.



1 **SEC. 2. TECHNICAL CORRECTIONS.**

2 (a) AMENDMENTS RELATED TO THE AMERICAN
3 JOBS CREATION ACT OF 2004.—

4 (1) AMENDMENTS RELATED TO SECTION 102
5 OF THE ACT.—

6 (A) Paragraph (2) of section 199(c) of the
7 Internal Revenue Code of 1986 is amended to
8 read as follows:

9 “(2) ALLOCATION METHOD.—The Secretary
10 shall prescribe rules for the proper allocation of
11 items described in paragraph (1) for purposes of de-
12 termining qualified production activities income.”.

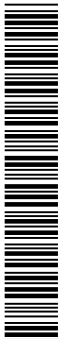
13 (B) Clause (i) of section 199(d)(4)(B) of
14 such Code is amended—

15 (i) by striking “50 percent” and in-
16 serting “more than 50 percent”, and

17 (ii) by striking “80 percent” and in-
18 serting “at least 80 percent”.

19 (2) AMENDMENT RELATED TO SECTION 231 OF
20 THE ACT.—Subparagraph (C) of section 1361(c)(1)
21 of such Code is amended to read as follows:

22 “(C) EFFECT OF ADOPTION, ETC.—For
23 purposes of this paragraph, any legally adopted
24 child of an individual, any child who is lawfully
25 placed with an individual for legal adoption by
26 the individual, and any eligible foster child of



1 an individual (within the meaning of section
2 152(f)(1)(C)), shall be treated as a child of
3 such individual by blood.”.

4 (3) AMENDMENT RELATED TO SECTION 248 OF
5 THE ACT.—Subsection (c) of section 1356 of such
6 Code is amended—

7 (A) by striking paragraph (3), and

8 (B) by adding at the end of paragraph (2)
9 the following new flush sentence:

10 “Such term shall not include any core qualifying ac-
11 tivities.”.

12 (4) AMENDMENT RELATED TO SECTION 314 OF
13 THE ACT.—Paragraph (2) of section 55(c) of such
14 Code is amended by striking “regular tax” and in-
15 serting “regular tax liability”.

16 (5) AMENDMENT RELATED TO SECTION 415 OF
17 THE ACT.—Subparagraph (D) of section 904(d)(2)
18 of such Code is amended by inserting “as in effect
19 before its repeal” after “section 954(f)”.

20 (6) AMENDMENTS RELATED TO SECTION 418
21 OF THE ACT.—

22 (A) The second sentence of section
23 897(h)(1) of such Code is amended by striking
24 “any distribution” and all that follows through
25 “any class of stock” and inserting “any dis-



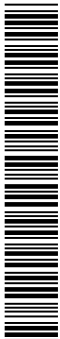
1 tribution by a real estate investment trust with
2 respect to any class of stock”.

3 (B) Subsection (c) of section 418 of the
4 American Jobs Creation Act of 2004 is amend-
5 ed by striking “taxable years beginning after
6 the date of the enactment of this Act” and in-
7 serting “any distribution by a real estate invest-
8 ment trust which is treated as a deduction for
9 a taxable year of such trust beginning after the
10 date of the enactment of this Act”.

11 (7) AMENDMENTS RELATED TO SECTION 422
12 OF THE ACT.—

13 (A) Subparagraph (A) of section 965(b)(2)
14 of such Code is amended by inserting “cash”
15 before “dividends”.

16 (B) Paragraph (3) of section 965(b) of
17 such Code is amended by adding at the end the
18 following: “The Secretary may prescribe such
19 regulations as may be necessary or appropriate
20 to prevent the avoidance of the purposes of this
21 paragraph, including regulations which provide
22 that cash dividends shall not be taken into ac-
23 count under subsection (a) to the extent such
24 dividends are attributable to the direct or indi-
25 rect transfer (including through the use of in-



1 tervening entities or capital contributions) of
2 cash or other property from a related person
3 (as so defined) to a controlled foreign corpora-
4 tion.”.

5 (C) Paragraph (1) of section 965(c) of
6 such Code is amended to read as follows:

7 “(1) APPLICABLE FINANCIAL STATEMENT.—

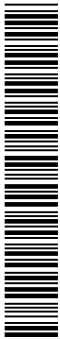
8 The term ‘applicable financial statement’ means—

9 “(A) with respect to a United States
10 shareholder which is required to file a financial
11 statement with the Securities and Exchange
12 Commission (or which is included in such a
13 statement so filed by another person), the most
14 recent audited annual financial statement (in-
15 cluding the notes which form an integral part
16 of such statement) of such shareholder (or
17 which includes such shareholder)—

18 “(i) which was so filed on or before
19 June 30, 2003, and

20 “(ii) which was certified on or before
21 June 30, 2003, as being prepared in ac-
22 cordance with generally accepted account-
23 ing principles, and

24 “(B) with respect to any other United
25 States shareholder, the most recent audited fi-



1 nancial statement (including the notes which
2 form an integral part of such statement) of
3 such shareholder (or which includes such share-
4 holder)—

5 “(i) which was certified on or before
6 June 30, 2003, as being prepared in ac-
7 cordance with generally accepted account-
8 ing principles, and

9 “(ii) which is used for the purposes of
10 a statement or report—

11 “(I) to creditors,

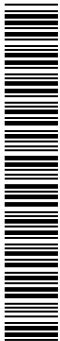
12 “(II) to shareholders, or

13 “(III) for any other substantial
14 nontax purpose.”.

15 (D) Paragraph (2) of section 965(d) of
16 such Code is amended by striking “properly al-
17 located and apportioned” and inserting “di-
18 rectly allocable”.

19 (E) Subsection (d) of section 965 of such
20 Code is amended by adding at the end the fol-
21 lowing new paragraph:

22 “(4) COORDINATION WITH SECTION 78.—Sec-
23 tion 78 shall not apply to any tax which is not allow-
24 able as a credit under section 901 by reason of this
25 subsection.”.



1 (F) The last sentence of section 965(e)(1)
2 of such Code is amended by inserting “which
3 are imposed by foreign countries and posses-
4 sions of the United States and are” after
5 “taxes”.

6 (8) AMENDMENTS RELATED TO SECTION 501
7 OF THE ACT.—

8 (A) Subparagraph (A) of section 164(b)(5)
9 of such Code is amended to read as follows:

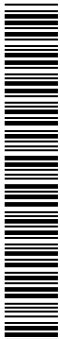
10 “(A) ELECTION TO DEDUCT STATE AND
11 LOCAL SALES TAXES IN LIEU OF STATE AND
12 LOCAL INCOME TAXES.—At the election of the
13 taxpayer for the taxable year, subsection (a)
14 shall be applied—

15 “(i) without regard to the reference to
16 State and local income taxes, and

17 “(ii) as if State and local general sales
18 taxes were referred to in a paragraph
19 thereof.”.

20 (B) Clause (ii) of section 56(b)(1)(A) of
21 such Code is amended by inserting “or clause
22 (ii) of section 164(b)(5)(A)” before the period
23 at the end.

24 (9) AMENDMENT RELATED TO SECTION 835 OF
25 THE ACT.—The last sentence of paragraph (3) of



1 section 860G(a) of such Code is amended by striking
2 “treated as secured” and inserting “treated as prin-
3 cipally secured”.

4 (10) AMENDMENTS RELATED TO SECTION 885
5 OF THE ACT.—

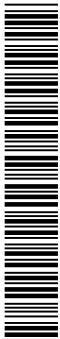
6 (A) Paragraph (2) of section 26(b) of such
7 Code is amended by striking “and” at the end
8 of subparagraph (R), by striking the period at
9 the end of subparagraph (S) and inserting “,
10 and”, and by adding at the end the following
11 new subparagraph:

12 “(T) subsections (a)(1)(B)(i) and
13 (b)(4)(A) of section 409A (relating to interest
14 and additional tax with respect to certain de-
15 ferred compensation).”.

16 (B) Clause (ii) of section 409A(a)(4)(C) of
17 such Code is amended by striking “first”.

18 (C)(i) Notwithstanding section 885(d)(1)
19 of the American Jobs Creation Act of 2004,
20 subsection (b) of section 409A of such Code
21 shall take effect on January 1, 2005.

22 (ii) Not later than 90 days after the date
23 of the enactment of this Act, the Secretary of
24 the Treasury shall issue guidance under which
25 a nonqualified deferred compensation plan



1 which is in violation of the requirements of sec-
2 tion 409A(b) of such Code shall be treated as
3 not having violated such requirements if such
4 plan comes into conformance with such require-
5 ments during such limited period as the Sec-
6 retary may specify in such guidance.

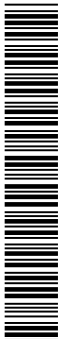
7 (D) Subsection (f) of section 885 of the
8 American Jobs Creation Act of 2004 is amend-
9 ed by striking “December 31, 2004” the first
10 place it appears and inserting “January 1,
11 2005”.

12 (11) EFFECTIVE DATE.—The amendments
13 made by this subsection shall take effect as if in-
14 cluded in the provisions of the American Jobs Cre-
15 ation Act of 2004 to which they relate.

16 (b) AMENDMENTS RELATED TO THE WORKING FAM-
17 ILIES TAX RELIEF ACT OF 2004.—

18 (1) AMENDMENT RELATED TO SECTION 203 OF
19 THE ACT.—Subparagraph (B) of section 21(b)(1) of
20 the Internal Revenue Code of 1986 is amended by
21 inserting “(as defined in section 152, determined
22 without regard to subsections (b)(1), (b)(2), and
23 (d)(1)(B))” after “dependent of the taxpayer”.

24 (2) AMENDMENT RELATED TO SECTION 207 OF
25 THE ACT.—Subparagraph (A) of section 223(d)(2)



1 of such Code is amended by inserting “, determined
2 without regard to subsections (b)(1), (b)(2), and
3 (d)(1)(B) thereof” after “section 152”.

4 (3) EFFECTIVE DATE.—The amendments made
5 by this subsection shall take effect as if included in
6 the provisions of the Working Families Tax Relief
7 Act of 2004 to which they relate.

8 (c) AMENDMENT RELATED TO THE JOBS AND
9 GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.—

10 (1) AMENDMENT RELATED TO SECTION 201 OF
11 THE ACT.—Subparagraph (D) of section
12 1400L(b)(2) of the Internal Revenue Code of 1986
13 is amended by striking “September 11, 2004” and
14 inserting “January 1, 2005”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by this subsection shall take effect as if included in
17 section 201 of the Jobs and Growth Tax Relief and
18 Reconciliation Act of 2003.

19 (d) AMENDMENTS RELATED TO THE TRADE ACT OF
20 2002.—

21 (1) Paragraph (4) of section 6103(p) of the In-
22 ternal Revenue Code of 1986 is amended by striking
23 “(l)(16), (17), (19), or (20)” each place it appears
24 and inserting “(l)(16), (18), (19), or (20)”.



1 (2) The Internal Revenue Code of 1986 shall be
2 applied and administered as if the amendments
3 made by section 408(a)(24) of the Working Families
4 Tax Relief Act of 2004 had never been enacted.

5 (e) AMENDMENT RELATED TO THE VICTIMS OF TER-
6 RORISM TAX RELIEF ACT OF 2001.—

7 (1) AMENDMENT RELATED TO SECTION 201 OF
8 THE ACT.—Paragraph (17) of section 6103(l) of the
9 Internal Revenue Code of 1986 is amended by strik-
10 ing “subsection (f), (i)(7), or (p)” and inserting
11 “subsection (f), (i)(8), or (p)”.

12 (2) EFFECTIVE DATE.—The amendment made
13 by this subsection shall take effect as if included in
14 section 201 of the Victims of Terrorism Tax Relief
15 Act of 2001.

16 (f) AMENDMENTS RELATED TO THE TAXPAYER RE-
17 LIEF ACT OF 1997.—

18 (1) AMENDMENTS RELATED TO SECTION 1055
19 OF THE ACT.—

20 (A) The last sentence of section 6411(a) of
21 the Internal Revenue Code of 1986 is amended
22 by striking “6611(f)(3)(B)” and inserting
23 “6611(f)(4)(B)”.



1 (B) Paragraph (4) of section 6601(d) of
2 such Code is amended by striking
3 “6611(f)(3)(A)” and inserting “6611(f)(4)(A)”.

4 (2) AMENDMENT RELATED TO SECTION 1144
5 OF THE ACT.—Subparagraph (B) of section
6 6038B(a)(1) of such Code is amended by inserting
7 “or” at the end.

8 (3) EFFECTIVE DATE.—The amendments made
9 by this subsection shall take effect as if included in
10 the provisions of the Taxpayer Relief Act of 1997 to
11 which they relate.

12 (g) CLERICAL CORRECTIONS.—

13 (1) Subparagraph (E) of section 26(b)(2) of the
14 Internal Revenue Code of 1986 is amended by strik-
15 ing “section 530(d)(3)” and inserting “section
16 530(d)(4)”.

17 (2)(A) Subclause (II) of section 38(c)(2)(A)(ii)
18 of such Code is amended by striking “or the New
19 York Liberty Zone business employee credit or the
20 specified credits” and inserting “, the New York
21 Liberty Zone business employee credit, and the spec-
22 ified credits”.

23 (B) Subclause (II) of section 38(c)(3)(A)(ii) of
24 such Code is amended by striking “or the specified
25 credits” and inserting “and the specified credits”.



1 (3) Subparagraph (A) of section 39(a)(1) of
2 such Code is amended by striking “each of the 1
3 taxable years” and by inserting “the taxable year”.

4 (4)(A) Subsection (a) of section 62 of such
5 Code is amended—

6 (i) by redesignating paragraph (19) (relat-
7 ing to costs involving discrimination suits, etc.),
8 as added by section 703 of the American Jobs
9 Creation Act of 2004, as paragraph (20), and

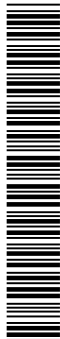
10 (ii) by moving such paragraph after para-
11 graph (19) (relating to health savings ac-
12 counts).

13 (B) Subsection (e) of section 62 of such Code
14 is amended by striking “subsection (a)(19)” and in-
15 serting “subsection (a)(20)”.

16 (5) Subsection (d) of section 121 of such Code
17 is amended by redesignating paragraph (10) (relat-
18 ing to property acquired in like-kind exchange), as
19 added by section 840 of the American Jobs Creation
20 Act of 2004, as paragraph (11).

21 (6) Paragraph (2) of section 221(d) of such
22 Code is amended by striking “this Act” and insert-
23 ing “the Taxpayer Relief Act of 1997”.

24 (7) Subparagraph (B) of section 332(d)(1) of
25 such Code is amended by striking “distribution to



1 which section 301 applies” and inserting “distribu-
2 tion of property to which section 301 applies”.

3 (8) The matter following clause (iv) of section
4 415(n)(3)(C) of such Code is amended by striking
5 “clauses” and inserting “clause”.

6 (9) Paragraph (1) of section 512(b) of such
7 Code is amended by striking “section 512(a)(5)”
8 and inserting “subsection (a)(5)”.

9 (10)(A) Subsection (b) of section 512 of such
10 Code is amended—

11 (i) by redesignating paragraph (18) (relat-
12 ing to the treatment of gain or loss on sale or
13 exchange of certain brownfield sites), as added
14 by section 702 of the American Jobs Creation
15 Act of 2004, as paragraph (19), and

16 (ii) by moving such paragraph to the end
17 of such subsection.

18 (B) Subparagraph (E) of section 514(b)(1) of
19 such Code is amended by striking “section
20 512(b)(18)” and inserting “section 512(b)(19)”.

21 (11)(A) Subsection (b) of section 530 of such
22 Code is amended by striking paragraph (3) and by
23 redesignating paragraphs (4) and (5) as paragraphs
24 (3) and (4), respectively.



1 (B) Clause (ii) of section 530(b)(2)(A) of such
2 Code is amended by striking “paragraph (4)” and
3 inserting “paragraph (3)”.

4 (12) Clause (i) of section 954(c)(1)(C) of such
5 Code is amended by striking “paragraph (4)(A)”
6 and inserting “paragraph (5)(A)”.

7 (13) Subparagraph (F) of section 954(c)(1) of
8 such Code is amended by striking “Net income from
9 notional principal contracts.” after “INCOME FROM
10 NOTIONAL PRINCIPAL CONTRACTS.—”.

11 (14) The matter preceding clause (i) of section
12 1031(h)(2)(B) of such Code is amended by striking
13 “subparagraph” and inserting “subparagraphs”.

14 (15) Paragraphs (1) and (2) of section 1375(d)
15 of such Code are each amended by striking “sub-
16 chapter C” and inserting “accumulated”.

17 (16) Each of the following provisions of such
18 Code are amended by striking “General Accounting
19 Office” each place it appears therein and inserting
20 “Government Accountability Office”:

21 (A) Clause (ii) of section 1400E(c)(4)(A).

22 (B) Paragraph (1) of section 6050M(b).

23 (C) Subparagraphs (A), (B)(i), and (B)(ii)
24 of section 6103(i)(8).



1 (D) Paragraphs (3)(C)(i), (4), (5), and
2 (6)(B) of section 6103(p).

3 (E) Subsection (e) of section 8021.

4 (17) Section 3401 of such Code is amended by
5 redesignating subsection (h) as subsection (g).

6 (18) Paragraph (2) of section 4161(a) of such
7 Code is amended to read as follows:

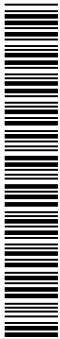
8 “(2) 3 PERCENT RATE OF TAX FOR ELECTRIC
9 OUTBOARD MOTORS.—In the case of an electric out-
10 board motor, paragraph (1) shall be applied by sub-
11 stituting ‘3 percent’ for ‘10 percent’.”.

12 (19) Subparagraph (C) of section 4261(e)(4) of
13 such Code is amended by striking “imposed sub-
14 section (b)” and inserting “imposed by subsection
15 (b)”.

16 (20) Section 6427 of such Code is amended by
17 striking subsection (o) and redesignating subsection
18 (p) as subsection (o).

19 (21) Subsection (a) of section 4980D of such
20 Code is amended by striking “plans” and inserting
21 “plan”.

22 (22) The matter following clause (iii) of section
23 6045(e)(5)(A) of such Code is amended by striking
24 “for ‘\$250,000’.” and all that follows through “to
25 the Treasury.” and inserting “for ‘\$250,000’. The



1 Secretary may by regulation increase the dollar
2 amounts under this subparagraph if the Secretary
3 determines that such an increase will not materially
4 reduce revenues to the Treasury.”.

